

**NATIONAL CAPITAL PLANNING COMMISSION
POLICY AND PROCEDURES
FOR THE TREATMENT OF CLASSIFIED AND CONTROLLED UNCLASSIFIED
INFORMATION¹**

I. OBJECTIVES

To establish a systematic, uniform approach consistent with applicable national security statutes, Executive Orders, regulations, and policies for: (1) the review of applications for plans or projects that are Classified in whole or part or designated Controlled Unclassified Information in whole or in part; (2) the preparation of NCPC plans using Classified or Controlled Unclassified Information; and (3) the preparation of the Federal Capital Improvement Plan (FCIP) involving federal capital projects that are Classified in whole or in part or designated Controlled Unclassified Information in whole or in part.

II. POLICY

It is the policy of the National Capital Planning Commission (NCPC or Commission) to review applications for Federal Government plans and projects, to prepare plans, and to prepare the FCIP in a manner consistent with all laws, Executive Orders, regulations, and policies pertaining to Classified and Controlled Unclassified Information.

III. DEFINITIONS

For purposes of this document, the terms set forth below shall mean as follows:

A. *Classified Information* means information clearly marked or clearly represented, pursuant to the provisions of a statute or Executive Order (or a regulation or order issued pursuant to a statute or Executive Order), as requiring a specific degree of protection against unauthorized disclosure for reasons of national security.

B. *Classified Federal Capital Improvement Project* means a federal capital improvement project that is designated as Classified Information in whole or in part.

C. *Classified Plan or Project* means a plan or project submitted to the Commission for review that is designated as Classified Information in whole or in part.

D. *Controlled Unclassified Information* means a categorical designation that refers to unclassified information that does not meet the standards for National Security Classification under Executive Order 12958, as amended, but is: (i) pertinent to the national interests of the United States or to the important interests of entities outside the Federal Government, and (ii) under law or policy requires protection from unauthorized disclosure, special handling safeguards, or prescribed limits on exchange or dissemination. Agency designations for this

¹ This Policy and Procedures for the Treatment of Classified and Controlled Unclassified Information was adopted by the National Capital Planning Commission on March 18, 2013.

classification vary and include, without limitation, For Official Use Only (FOUO) and Sensitive but Unclassified (SBU).

E. *Controlled Unclassified Federal Capital Improvement Project* means a federal capital improvement project that is designated Controlled Unclassified Information in whole or in part.

F. *Controlled Unclassified Plan or Project* means a plan or project submitted to the commission for review that is designated Controlled Unclassified Information in whole or in part.

IV. PROCEDURES

A. General

1. Applicants shall be advised to clearly and appropriately mark or identify any Classified Information or Controlled Unclassified Information provided to NCPC.
2. All Classified Information or Controlled Unclassified Information shall be submitted to or identified to NCPC's Security Officer (SO).
3. The SO shall maintain a log of all Classified Information or Controlled Unclassified Information submitted to NCPC or used by NCPC in the conduct of its work.
4. All Classified Information and Controlled Unclassified Information shall be handled in an appropriate manner as required by its status and the "NCPC National Security Classified Information Policy", dated April 3, 2012. Treatment in an appropriate manner includes, without limitation, storage of Classified Information in a secure, in-house facility; storage of Controlled Unclassified Information in a locked desk drawer or cabinet; discussion of Classified Information only in a secured compartmentalized information facility (SCIF) or on a secured telephone unit (STU); and creation of documents referencing or discussing Classified Information only on a secure computer suitable for use for Classified Information.

B. Plans or Projects

1. Classified Plans or Projects

a. Classified Plan or Project Qualifying for Delegation

- 1) If a Classified Plan or Project qualifies for delegation to the Executive Director pursuant to delegations enacted by the Commission, the SO shall refer the Classified Plan or Project to the Executive Director.
- 2) Based on consultation with the applicant, the Executive Director shall either undertake the review of the Classified Plan or Project or assign the application to the NCPC manager in charge of the plan review function for review.
- 3) The designated reviewer shall review the Classified Plan or Project application materials in a SCIF. If the application includes non-classified information, and this information can be easily segregated from the Classified Information, the

non-classified information shall be submitted to the designated reviewer for review at the NCPC's office.

- 4) The designated reviewer shall prepare an Executive Director's Report (EDR). If reference is made in the EDR to Classified Information, the EDR shall be prepared on a secured computer. If the EDR does not refer to Classified Information, the EDR may be prepared on a non-secured computer.
- 5) If the NCPC manager in charge of the plan review function prepares the EDR, the EDR shall be submitted to the Executive Director for review and approval.
- 6) The Executive Director shall report to the Commission the exercise of a delegation of authority at the Commission meeting following the exercise of the delegation without revealing the classified nature of the plan or project or any classified information pertaining to the plan or project. If Commission members request information on the delegated project, a briefing of suitable content for non-cleared Commission members shall be provided at a date and time to be determined.
- 7) Application materials for the Classified Plan or Project shall not be posted on the NCPC website or otherwise disclosed to the public.
- 9) The Commission's Tentative and Final Agenda and list of delegated items contained in the EDR shall not reference the Classified Plan or Project.
- 10) If the EDR and the Memorandum of Action (MOA) reference Classified Information, the documents shall be provided to the applicant with a request that the applicant appropriately classify the documents and retain them in its files.
- 11) The designated reviewer shall place non-classified project materials in the NCPC project file along with a note indicating certain application materials, to include as appropriate, an EDR and a MOA for the subject plan or project is contained in the applicant's files.
- 12) To implement the procedure set forth in this part B.1.a and part B.1.b below, the Executive Director, the NCPC manager in charge of the plan review function, and the Chairman shall possess a current Top Secret Clearance.

b. Classified Plans or Projects Ineligible for Delegation

- 1) If a Classified Plan or Project does not qualify for delegation to the Executive Director pursuant to delegations enacted by the Commission, the SO shall refer the Classified Plan or Project to the Executive Director for review.
- 2) Based on consultation with the applicant, the Executive Director shall either undertake the review of the Classified Plan or Project or assign the application to NCPC manager in charge of the plan review function.
- 3) The designated reviewer shall review the Classified Plan or Project application materials in a SCIF. If the application includes non-classified information, and this information can be easily segregated from the Classified Information, the

non-classified information shall be submitted to the designated reviewer for review at NCPC's office.

- 4) The designated reviewer shall prepare an EDR. If reference is made in the EDR to Classified Information, the EDR shall be prepared on a secured computer. If the EDR does not refer to Classified Information, the EDR may be prepared on a non-secured computer.
- 5) The designated reviewer shall brief the Executive Committee of the Commission on the Classified Plan or Project and shall do so only in a SCIF or using a STU at both ends of the conversation. The Executive Committee shall take final action on the Classified Plan or Project pursuant to an express delegation from the Commission.
- 6) The Chairman shall report to the Commission the exercise of a delegation of authority by the Executive Committee at the Commission meeting following the exercise of the delegation without revealing the classified nature of the plan or project or any classified information pertaining to the plan or project. If Commission members request information on the delegated project, a briefing of suitable content for non-cleared Commission members shall be provided at a date and time to be determined.
- 7) Application materials for the Classified Plan or Project shall not be posted on the NCPC website or otherwise disclosed the public.
- 8) The Commission's Tentative and Final Agenda shall not reference the Classified Plan or Project.
- 9) If the EDR and/or the MOA reference the Classified Information, the document(s) shall be provided to the applicant with a request that the applicant classify the documents and retain them in its files.
- 10) The designated reviewer shall place non-classified project materials in the NCPC project file along with a note indicting certain application materials, to include as appropriate, an EDR and/or the MOA for the subject plan or project is contained
- 11) To implement the procedure set forth in this part B.1.b. the members of the Executive Committee shall possess a current Top Secret Clearance. The costs to obtain and maintain a top secret clearance for members of the Executive Committee shall be borne by the appointing authority.

2. Controlled Unclassified Plans or Projects

a. Controlled Unclassified Plans or Project Qualifying for Delegation

- 1) If a Controlled Unclassified Plan or Project qualifies for delegation to the Executive Director, the SO shall refer the Controlled Unclassified Plan or Project to the NCPC manager in charge of the plan review function.

- 2) The NCPC manager in charge of the plan review function shall assign the Controlled Unclassified Plan or Project to an appropriate staff member for review. The designated staff member shall obtain the Controlled Unclassified Plan or Project from the applicant for in-house review. The designated staff member shall only discuss the application with the Director of UDPRD and members of the NCPC Executive Staff with a need to know.
- 3) The Controlled Unclassified Plan or Project shall be kept in a locked drawer or other secure in-house facility during its use.
- 4) The designated staff member shall consider the Controlled Unclassified Plan or Project in his/her review and analysis but shall prepare an EDR that speaks to the project in general terms and makes no reference to Controlled Unclassified Information.
- 5) Upon completion, the EDR shall be submitted to the Executive Director for review and approval.
- 6) Only general application information that does not refer to or divulge the SBU information shall be posted on the NCPC website or otherwise disclosed to the public.
- 7) The Tentative and Final Agenda for a Commission meeting, the list all delegated actions contained in the report of the Executive Director, and the MOA shall contain only a general reference to the Controlled Unclassified Plan or Project that does not divulge any Controlled Unclassified information.
- 8) If a member of the public registers to speak at a Commission meeting on a delegated Controlled Unclassified Plan or Project, and the item is treated as an action item at the Commission meeting, the designated staff member shall present a project briefing to the Commission in Executive Session that reveals the Controlled Unclassified Information. Thereafter, at the open session of the Commission meeting, the designated staff member shall present a general project briefing without reference to the Controlled Unclassified Information, and the Commission shall deliberate and take action on the Controlled Unclassified Plan or Project in the open session without discussing or disclosing the Controlled Unclassified Information.
- 9) If a Commission members asks questions about a delegated Controlled Unclassified Plan or Project at the open session of a Commission meeting, either the Executive Director or the designated staff member shall respond without revealing the Controlled Unclassified Information.
- 10) No Controlled Unclassified Information or reference to such information shall be placed in the plan or project file.
- 11) At the conclusion of the review process, the designated staff member shall, at the applicant's discretion, either return the Controlled Unclassified Information to the applicant or shred it.

b. Controlled Unclassified Plans or Projects Ineligible for Delegation

- 1) If a Controlled Unclassified Plan or Project does not qualify for delegation to the Executive Director pursuant to delegations enacted by the Commission, the SO shall refer the Controlled Unclassified Plan or Project to the NCPC manager in charge of the plan review function.
- 2) The manager in charge of the plan review function shall assign the Controlled Unclassified Plan or Project to an appropriate staff member for review. The designated staff member shall obtain the Controlled Unclassified Plan or Project from the applicant for in-house review. The designated staff member shall only discuss the application with the manager in charge of the plan review function and members of the NCPC Executive Staff with a need to know.
- 3) The Controlled Unclassified Plan or Project shall be kept in a locked drawer or other secure in-house facility during its use.
- 4) The designated staff member shall consider the Controlled Unclassified Plan or Project in his/her review and analysis but shall prepare an EDR that speaks to the project in general terms and makes no reference to Controlled Unclassified Information.
- 5) Only generic application information that does not refer to or divulge SBU information shall be posted on the NCPC website or otherwise disclosed to the public.
- 6) The Tentative and Final Agenda for a Commission meeting and the MOA shall contain only a general reference to the Controlled Unclassified Plan or Project that does not divulge any Controlled Unclassified Information.
- 7) The designated staff member shall present a project briefing to the Commission in Executive Session that reveals the Controlled Unclassified Information.
- 8) The designated staff member shall present a general project briefing without reference to the Controlled Unclassified Information at the open session of the Commission meeting. The Commission shall deliberate and take action on the Controlled Unclassified Plan or Project in the open session without discussing or disclosing the Controlled Unclassified Information.
- 9) No Controlled Unclassified Information or reference to such information shall be placed in the plan or project file.
- 10) At the conclusion of the review process, the designated staff member shall, at the applicant's discretion, either return the Controlled Unclassified Information to the applicant or shred it.

C. Planning Projects

1. Planning Projects Using Classified Information

- a. The SO shall assign the NCPC manager in charge of plan derivation to consult with the federal agency providing or disclosing Classified Information relevant to a planning project.
- b. The designated manager shall review the Classified Information or receive a classified briefing at the disclosing federal agency's office or other designated SCIF. The designated manager shall discuss the Classified Information with only those NCPC Executive staff members with the requisite clearance and a need to know. Any telephone conversations between the designated manager and the disclosing federal agency regarding the Classified Information shall take place only on a STU at both ends of the conversation.
- c. The designated manager shall consider the Classified Information in the plan derivation process and determine if it informs the contents of the plan. If the Classified Information informs the contents of the plan, the plan should be drafted accordingly based on the recommendation of the designated manager but without reference to the Classified Information.
- d. The Executive Director shall report to the Commission in Executive Session that Classified Information informing the contents of a NCPC plan has been received and is germane to the contents of the plan following a determination of the information's relevance by the designated manager. The report shall not reveal the Classified Information. If Commission members request additional information, a briefing of suitable content for non-cleared Commission members shall be provided at a date and time to be determined.
- e. The Classified Information that informs the plans contents shall not be posted on the NCPC website or otherwise disclosed to the public.
- f. Any written and oral briefing to the Commission on the plan's contents or EDR prepared in anticipation of Commission action on the plan shall not reference the Classified Information.
- g. The MOA shall not disclose the Classified Information.
- h. Any information placed in the file for the plan shall be unclassified and no reference shall be made to any Classified Information.
- i. To implement this procedure on Classified Information relative to the preparation plans, the NCPC manager in charge of plan derivation shall possess a current Top Secret Clearance.

2. Planning Projects Using Controlled Unclassified Information

- a. The SO shall assign the NCPC manager in charge of plan derivation to consult with the federal agency intending to provide or disclose Controlled Unclassified Information.
- b. The designated manager shall assign the portion of the planning process involving Controlled Unclassified Information to an appropriate staff member for review. The

designated staff member shall obtain the Controlled Unclassified Information from the disclosing federal agency for in-house review or schedule the briefing which includes Controlled Unclassified Information at the office of either NCPC or the disclosing party. The designated staff member shall only discuss the application with the manager in charge of plan derivation and members of the NCPC Executive Staff.

- c. The Controlled Unclassified Information shall be kept in a locked drawer or other secure in-house facility during its use.
- d. The designated staff member shall consider the Controlled Unclassified Information in the plan derivation process and determine if it informs the contents of the plan. If the Controlled Unclassified Information informs the contents of the plan, the plan should be drafted accordingly based on the recommendation of the designated staff member but without reference to the Controlled Unclassified Information.
- e. Only general application information that does not refer to or divulge the Controlled Unclassified Information shall be posted on the NCPC website or otherwise disclosed to the public.
- f. Any written and oral briefing to the Commission on the plan or EDR prepared in anticipation of Commission action on the plan shall not reference the Controlled Unclassified Information.
- g. The designated staff member shall present a briefing to the Commission in Executive Session which reveals the Controlled Unclassified Information that informed the contents of the plan.
- h. The Commission shall deliberate and take action on the plan during the open session of a Commission meeting without disclosing the Controlled Unclassified Information.
- i. The MOA shall not disclose any Controlled Unclassified Information.
- j. No Controlled Unclassified Information or reference to such information shall be placed in the plan file.
- k. At the conclusion of the review process, the designated staff member shall, at the relevant federal agency's discretion, either return the Controlled Unclassified Information to the applicant or shred it.

D. Federal Capital Improvement Projects

1. Classified Federal Capital Improvement Projects

- a. The SO shall assign the NCPC manager in charge of the FCIP to consult with the federal agency proposing the Classified Federal Capital Improvement Project.
- b. The designated manager shall review the Classified Information or receive a classified briefing at the relevant federal agency's office or other designated SCIF. The designated manager shall discuss the Classified Information with only those NCPC Executive staff members with the requisite clearance and a need to know. Any

telephone conversations between the designated manager and the disclosing federal agency regarding the Classified Information shall take place on a STU at both ends of the conversation.

- c. The designated manager shall consider the Classified Federal Capital Improvement Project in the derivation of the FCIP to determine whether the project qualifies for inclusion in the FCIP. If the Classified Federal Capital Improvement Project qualifies for inclusion in the FCIP, a general description of the project shall be included in the FCIP without reference to or use of the Classified Information.
- d. The Executive Director shall report to the Commission in Executive Session that a Classified FCIP Project has been submitted and will be evaluated by the Manager in charge of the FCIP process. The report shall not reveal the Classified Federal Capital Improvement Project. If Commission members request additional information, a briefing of suitable content for non-cleared Commission members shall be provided at a date and time to be determined.
- e. The Classified Capital Improvement Project shall not be posted on the NCPC website or otherwise disclosed to the public.
- f. No Classified Information shall be placed in the FCIP file.
- g. To implement this procedure on Classified Information relative to the preparation of a FCIP, the NCPC manager in charge of the FCIP shall possess a current Top Secret Clearance at all times.

2. Controlled Unclassified Federal Capital Improvement Project

- a. The SO shall assign the NCPC manager in charge of the FCIP to consult with the federal agency intending to disclose the Controlled Unclassified Information.
- b. The designated manager shall assign the Controlled Unclassified FCIP project to an appropriate staff member for review. The designated staff member shall obtain the Controlled Unclassified Information from the disclosing federal agency for in-house review. The designated staff member shall only discuss the Controlled Unclassified Information with the NCPC manager in charge of the FCIP and members of the NCPC Executive Staff.
- c. The Controlled Unclassified Information shall be kept in a locked drawer or other secure in-house facility during its use.
- d. The designated staff member shall consider the Controlled Unclassified Information in the derivation of the FCIP and determine if the project qualifies for inclusion in the FCIP. If the Controlled Unclassified Federal Capital Improvement Project qualifies for inclusion in the FCIP, a general description of the project shall be included in the FCIP without reference to or use of the Controlled Unclassified Information.

- e. The Executive Director or the designated manager shall brief the Commission on the Controlled Unclassified Capital Improvement Project in Executive Session prior to Commission action on the FCIP.
- f. Only general application information that does not refer to or divulge the Controlled Unclassified Information shall be posted on the NCPC website or otherwise disclosed to the public.
- g. No Controlled Unclassified Information shall be placed in the FCIP file.
- h. At the conclusion of the review process, the designated staff member shall, at the providing federal agency's discretion, either return the Controlled Unclassified Information to the applicant or shred it.

E. Dispute Resolution

1. In the rare event the Executive Director disputes an agency's designation of any plan, project, planning related information or FCIP project or part thereof as Controlled Unclassified Information, NCPC shall proceed with a dispute resolution as outlined in this section.
2. The parties shall use their best efforts to resolve the dispute in an informal fashion and through consultation and negotiation at the lowest possible level to include staff discussions and discussions between the Executive Director and his/her SES counterpart at the other agency.
3. If the parties fail to reach a mutually acceptable resolution at the staff level, the matter shall be submitted to the Chairman of NCPC and his counterpart of first level presidential appointee at the other agency for resolution through consultation and negotiation.
4. If the parties fail to reach a mutually acceptable resolution by means of the process outlined above, the matter shall be referred to the OMB. The decision of OMB shall be final and binding upon the parties.
5. Prior to submission to OMB, the parties may at any point in the dispute resolution process agree to use acceptable non-binding alternative means of dispute resolution.